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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/907,903	07/19/2001	Kyoko Yamamoto	2185-0554P-SP	9946
2292	7590	07/23/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			HON, SOW FUN	
PO BOX 747			ART UNIT	
FALLS CHURCH, VA 22040-0747			PAPER NUMBER	

1772

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/907,903

Applicant(s)

YAMAMOTO ET AL.

Examiner

Sow-Fun Hon

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 06/28/04. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.Claim(s) objected to: None.Claim(s) rejected: 1-15.Claim(s) withdrawn from consideration: None.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: Advisory Action

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Advisory Action

1. The newly proposed amendment will not be entered because they raise new issues that would require further consideration and/or search.
2. The amendment to claim 1, changes the upper limit for the volume fraction to 75 from 85. Although the amendment does not constitute new matter, it does present new issues that would require further consideration and/or search.
3. Applicant's arguments directed to the prior art rejections regarding the claims dated 10/03/03 are addressed below.
4. The correction to the upper limit of the minor axis size of the micropores as taught by Yoshinaga et al., of 10,000 nm instead of 1,000 nm, is acknowledged. However, the rejection still stands as discussed below.
5. Applicant argues that while in the present application, the minor axis size of the micropores is smaller than a wavelength of light in a visible region, Yoshinaga et al. teaches a very wide range of the minor axis size of 100 nm to 10,000 nm, and does not teach it in the concrete examples.

Applicant is respectfully apprised that the lower end of the range, of from 100 nm to 1000 nm, encompasses the wavelengths of light in the claimed region of visible light. Applicant has not provided a showing of unexpected results for the narrower range of 400 to 800 nm minor axis size of the micropores.
6. Applicant argues that the anisotropic scattering film of the present application is used without switching of applied voltage, and that it is not disposed between a pair of electrode plates.

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Applicant is respectfully apprised that the features upon which applicant relies (i.e., role of scattering film in the absence of switching of applied voltage, and that the film is not disposed between a pair of electrode plates in the liquid crystal display) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. Applicant's arguments with respect to the newly proposed limitation of 30-75 % void fraction will not be addressed here. As stated above, the newly proposed limitation raises new issues and will not be entered.

8. Applicant argues that the film of Yoshinaga needs a higher porosity of 80-98% because it requires ON-OFF of applied voltage in order to change the orientation of filling substances in the pores.

Applicant is respectfully apprised that the range of 80-98% porosity of Yoshinaga does overlap the limitation of 30-85% in the claims dated 10/03/03, and that the features upon which applicant relies (i.e., role of scattering film in a display, functioning in the absence of switching of applied voltage, and that the film is not disposed between a pair of electrode plates in the display) are not recited in the rejected claim(s).

9. Applicant argues that Larson is silent about the amount of the dispersed droplets in the matrix film.

Applicant is respectfully apprised that the feature upon which Applicant relies, i.e. the amount of dispersed droplets, are not recited in the rejected claim(s).

10. Applicant argues that Larson is silent about the diameter of the droplets.

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Applicant is respectfully reminded that Yoshinaga et al. is the secondary reference which teaches the diameter of the droplets (minor axis size), as discussed above.

11. Applicant's arguments against the rejections, using Hirai et al. and Tsubata et al. as secondary references, are directed against the valid use of Yoshinaga et al. as the primary reference. These arguments have been addressed above.

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (571)272-1492. The examiner can normally be reached Monday to Friday from 10:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571)272-1498. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sow-Fun Hon

07/16/04



HAROLD PYON
SUPERVISORY PATENT EXAMINER

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7/21/04